

(ii) You were found not disabled for any month based on the definition of disability in §§ 404.1577 and 404.1578, as in effect prior to January 1991, but would have been entitled if the standard in § 404.1505(a) had applied. (This exception to the requirement for filing an application is effective only with respect to benefits payable for months after December 1990.);

(c) You are at least 60 years old; or you are at least 50 years old and have a disability as defined in § 404.1505 and—

(1) Your disability started not later than 7 years after the insured died or 7 years after you were last entitled to mother's or father's benefits or to widow's or widower's benefits based upon a disability, whichever occurred last;

(2) Your disability continued during a waiting period of 5 full consecutive months, unless months beginning with the first month of eligibility for supplemental security income or federally administered State supplementary payments are counted, as explained in paragraph (c)(3) of this section. This waiting period may begin no earlier than the 17th month before you applied; the fifth month before the insured died; or if you were previously entitled to mother's, father's, widow's, or widower's benefits, the 5th month before your previous entitlement to benefits ended. If you were previously entitled to widow's or widower's benefits based upon a disability, the waiting period is not required; and

(3) For monthly benefits payable for months after December 1990, if you were or have been eligible for supplemental security income or a federally administered State supplementary payments, as specified in subparts B and T of part 416 of this chapter, respectively, your disability does not have to have continued through a separate, full 5-month waiting period before you may begin receiving benefits. We will include as months of the 5-month waiting period the months in a period beginning with the first month you received supplemental security income or a federally administered State supplementary payment and continuing through all succeeding months, regardless of whether the months in the period coincide with the months in which

your waiting period would have occurred, or whether you continued to be eligible for supplemental security income or a federally administered State supplementary payment after the period began, or whether you met the nondisability requirements for entitlement to widow's or widower's benefits. However, we will not pay you benefits under this provision for any month prior to January 1991;

(d) You are not entitled to an old-age benefit that is equal to or larger than the insured person's primary insurance amount; and

(e) You are unmarried, unless for benefits for months after 1983—

(1) You remarried after you became 60 years old; or

(2)(i) You are now age 60 or older;

(ii) You remarried after attaining age 50 but before attaining age 60; and

(iii) At the time of the remarriage, you were entitled to widow(er)'s benefits as a disabled widow(er); or

(3)(i) You are now at least age 50 but not yet age 60;

(ii) You remarried after attaining age 50; and

(iii) You met the disability requirements in paragraph (c) of this section at the time of your remarriage (i.e., your disability began within the specified time and before your remarriage).

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§ 404.337 When widow's and widower's benefits begin and end.

(a) You are entitled to widow's or widower's benefits under § 404.335 or § 404.336 beginning with the first month covered by your application in which you meet all the other requirements for entitlement.

(b) Your entitlement to benefits ends at the earliest of the following times:

(1) The month before the month in which you become entitled to an old-age benefit that is equal to or larger than the insured's primary insurance amount.

(2) If your widow's or widower's benefit is based upon a disability, the second month after the month your disability ends or, where disability ends

on or after December 1, 1980, the month before your termination month (§404.325). However payments are subject to the provisions of paragraphs (c) and (d) of this section. You may remain eligible for payment of benefits if you became 65 years old before your termination month and you met the other requirements for widow's or widower's benefits. If your widow's or widower's benefit is based on a finding that drug addiction or alcoholism is a contributing factor material to the determination of disability as described in §404.1535, your entitlement to benefits will terminate the month after the 12th consecutive month of suspension for noncompliance with treatment or after 36 months of benefits on that basis when treatment is available regardless of the number of entitlement periods you may have had, unless you are otherwise disabled without regard to drug addiction or alcoholism.

(3) The month before the month in which you die.

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(ii) You are participating in an appropriate program of vocational rehabilitation as described in §404.316(c)(1)(ii);

(iii) You began the program before your disability ended; and

(iv) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than

the second month after the month your disability ends.

(d) If, after November 1980, you have a disabling impairment (§404.1511), you will be paid benefits for all months in which you do not do substantial gainful activity during the reentitlement period (§404.1592a) following the end of your trial work period (§404.1592). If you are unable to do substantial gainful activity in the first month following the reentitlement period, we will pay you benefits until you are able to do substantial gainful activity. (Earnings during your trial work period do not affect the payment of your benefits.) You will also be paid benefits for the first month after the trial work period in which you do substantial gainful activity and the two succeeding months, whether or not you do substantial gainful activity during those succeeding months. After those three months, you cannot be paid benefits for any months in which you do substantial gainful activity.

[44 FR 34481, June 15, 1979, as amended at 47 FR 31542, July 21, 1982; 49 FR 22271, May 29, 1984; 51 FR 4482, Feb. 5, 1986; 51 FR 17617, May 14, 1986; 58 FR 64891, Dec. 10, 1993; 60 FR 8146, Feb. 10, 1995]

§404.338 Widow's and widower's benefits amounts.

Your widow's or widower's monthly benefit is equal to the insured person's primary insurance amount. If the insured person died before reaching age 62 and you are first eligible after 1984, we may compute a special primary insurance amount for the purpose of determining the amount of your monthly benefit (see §404.212(b)). We may increase your monthly benefit amount if the insured person earned delayed retirement credit after age 65 by working or by delaying filing for benefits (see §404.313). The amount of your monthly benefit may change as explained in §404.304. In addition, your monthly benefit will be reduced if the insured person had been entitled to old-age benefits that were reduced for age because he or she chose to receive them before becoming 65 years old. In this instance, your benefit is reduced, if it would otherwise be higher, to either the amount the insured would have been entitled to if still alive or 82½